

FIRST REGULAR SESSION

HOUSE BILL NO. 709

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRISAMORE.

0961L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to state procurement.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 34, RSMo, is amended by adding thereto one new section, to be known as section 34.460, to read as follows:

34.460. 1. This section shall be known and may be cited as the "Missourians with Disabilities Jobs Act of 2013".

2. As used in this section, the following terms shall mean:

(1) "Direct labor", all work performed to fulfill a contract under the provisions of this section, excluding supervision and administration;

(2) "Political subdivision", includes any political subdivision of the state having its own purchasing agency, such as a county, municipality, school district, or other public body, that is supported in whole or in part by funds appropriated by the general assembly;

(3) "Qualifying disability", a significant mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment. Such significant disability shall be certified by the division of vocational rehabilitation within the department of elementary and secondary education; the Social Security Administration Title 42, Section 423 of the United States Code; the Social Security Administration Title 42, Section 416(i)(1)(B) of the United States Code; or a person eligible for services from the division of developmental disabilities of the department of mental health;

(4) "Qualifying vendor":

(a) A person with a qualifying disability; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 (b) A business or entity, whether for profit or nonprofit, that employs individuals
20 with a qualifying disability; provided such individuals perform at least seventy-five percent
21 of the direct labor hours required to fulfill a state contract for goods or services; or

22 (c) Any nonprofit agency serving people with significant disabilities that meets the
23 eligibility criteria to participate in the federal AbilityOne program, or its successor
24 program, as described in 41 U.S.C. Sections 8501 to 8506.

25 3. Notwithstanding any provision of this chapter, the division of purchasing and
26 materials management within the office of administration shall set a goal of procuring at
27 least three percent of goods and services from qualifying vendors. The division shall:

28 (1) Develop and maintain a list of goods and services that are available from
29 qualifying vendors and which such division determines are suitable for procurement from
30 qualifying vendors by departments of the state and political subdivisions under this
31 section;

32 (2) Approve prices for goods and services identified under this section;

33 (3) Review bids received by qualifying vendors; and

34 (4) Award and renew contracts for the purchase of goods and services under this
35 section without competitive bidding.

36
37 Such procurement list, and revision thereof, shall be submitted to the office of
38 administration for approval and, upon approval, shall be distributed to all purchasing
39 officers of the state, its departments, and all political subdivisions. All products or services
40 offered for purchase to a state department or a political subdivision by a qualifying vendor
41 shall have significant value added by blind or significantly disabled persons as determined
42 by the office of administration. Suspected violations of the eligibility criteria for a
43 qualifying vendor may be reported to and shall be investigated by the state auditor.

44 4. Individuals with a qualifying disability shall be paid at least minimum wage for
45 direct labor hours performed in fulfillment of any contract awarded under the provisions
46 of this section.

47 5. The amount of goods and services that may be purchased in accordance with this
48 section shall not exceed twenty-five million dollars unless increased by the office of
49 administration.

50 6. It shall be the duty of the office of administration to determine the fair market
51 price of all products and services offered for sale to the various departments of the state
52 or political subdivisions by qualifying vendors. The fair market price shall be competitive
53 with the cost of procuring the goods or services from another source and shall, at a
54 minimum, recover for the qualifying vendor the cost of raw materials, labor, overhead, and

55 delivery, and shall be revised from time to time in accordance with changing cost factors.
56 The office of administration may make such rules and regulations necessary to carry out
57 the purposes of this section, including specifications, time of delivery, and assignment of
58 products and services to be supplied by qualifying vendors and other relevant matters of
59 procedure. After a contract has been awarded, all state departments as defined in section
60 34.010 and political subdivisions shall purchase the products and services on the
61 procurement list as determined by the office of administration in accordance with this
62 section. The office of administration may authorize the purchase of products and services
63 from other sources when requisitions cannot reasonably be fulfilled by a qualifying vendor.

64 7. In assessing the suitability of any potential addition to the procurement list, the
65 office of administration shall consider the interest of small and disadvantaged-owned
66 businesses by determining whether the addition would have a severe adverse impact on the
67 current contractor for the commodity or service. Generally, an impact of no more than
68 fifteen percent of the total revenue of the contractor would not be deemed severe.
69 However, in deciding whether a proposed addition to the procurement list would have a
70 severe adverse impact on the current contractor, the office of administration shall
71 consider:

72 (1) Financial and employment information provided by the current contractor
73 regarding the impact on the contractor's sales;

74 (2) Whether the contractor has been a consistent supplier of the commodity or
75 service, and therefore, more dependent on such sales; and

76 (3) Any other factor the office of administration deems relevant.

77 8. Except as otherwise provided in this section, all departments shall purchase
78 goods and services produced by a qualifying vendor using the procurement list established
79 in subsection 7 of this section if:

80 (1) The goods or services offered for sale by a qualifying vendor reasonably
81 conform to the needs and specifications of the department; and

82 (2) The qualifying vendor can supply the goods and services within a reasonable
83 time.

84 9. In furtherance of this section, the governor may elect to appoint a committee of
85 no fewer than five senior state agency procurement officials and at least one representative
86 of a qualified nonprofit agency for the blind, one qualified nonprofit agency for the
87 significantly disabled, and one private citizen to collaborate to further this section. Such
88 committee shall be unpaid, not require appropriation, and would serve in an advisory
89 capacity only.

90 **10. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
91 **created under the authority delegated in this section shall become effective only if it**
92 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
93 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
94 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
95 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
96 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,**
97 **shall be invalid and void.**

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